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| 10/051,682 | 01/18/2002 | Robert Vincent Cox | 016295.0745 (DC-03247) | 1169 |

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| 7590 06/05/2007 | EXAMINER |
| Baker Botts L.L.P.<br>One Shell Plaza<br>910 Louisiana<br>Houston, TX 77002-4995 | AILES, BENJAMIN A |

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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

PTOL-90A (Rev. 04/07)

| | Application No. | Applicant(s) |
|---|---|---|
| **Office Action Summary** | 10/051,682 | COX ET AL. |
| | Examiner | Art Unit | |
| | Benjamin A. Ailes | 2142 | |

*-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --*

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

1)☒ Responsive to communication(s) filed on <u>05 April 2007</u>.

2a)☐ This action is **FINAL**.    2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

4)☒ Claim(s) *1,3-8,10-14 and 16-22* is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1,3-8,10-14 and 16-22* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

## Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All    b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1)☒ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.

5)☐ Notice of Informal Patent Application

6)☐ Other: _____.

## DETAILED ACTION

### *Continued Examination Under 37 CFR 1.114*

1.    A request for continued examination under 37 CFR 1.114, including the

fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection.

Since this application is eligible for continued examination under 37 CFR 1.114,

and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the

previous Office action has been withdrawn pursuant to 37 CFR 1.114.

Applicant's submission filed on 05 April 2007 has been entered.

2.    Claims 1, 3-8, 10-14 and 16-22 remain pending.

### *Response to Arguments*

3.    Applicant's arguments with respect to the claims have been considered

but are moot in view of the new ground(s) of rejection.

### *Claim Rejections - 35 USC § 112*

4.    The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly
> claiming the subject matter which the applicant regards as his invention.

5.    Claim 22 is rejected under 35 U.S.C. 112, second paragraph, as being

indefinite for failing to particularly point out and distinctly claim the subject matter

which applicant regards as the invention.

6.    Claim 22 recites the limitation "the network configuration" in line 2. There

is insufficient antecedent basis for this limitation in the claim.

## *Claim Rejections - 35 USC § 102*

7.      The following is a quotation of the appropriate paragraphs of 35

U.S.C. 102 that form the basis for the rejections under this section made in this

Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

8.      Claims 1, 3-5, 8, 10-12, 14, 16-18, 21 and 22 are rejected under 35

U.S.C. 102(e) as being anticipated by Turnbull (US 7,146,412 B2).

9.      Regarding claim 1, Turnbull discloses a method of validating a network,

the method comprising:

receiving user input requesting a validation process (col. 2, ll. 56-59, load

programs on computing devices to conduct validation process);

in response to the user input, automatically communicating with devices in

the network and discovering attributes of the devices (col. 2, ll. 56-59, load

programs on computing devices to conduct validation process);

automatically comparing the discovered attributes with a predefined set of

valid device attributes (col. 2, ll. 59-62, automatically alert when an upgrade is

necessary);

generating output data that indicates whether the discovered attributes

match the valid device attributes (col. 3, ll. 3-9, determine versions); and

generating output data that identifies an invalid attribute among the

discovered attributes and a corresponding valid attribute from the predefined set

of valid device attributes (col. 3, ll. 3-9, current and available upgrade versions

are compared).

10.    Regarding claim 3, Turnbull discloses the method, wherein:

the predefined set of valid device attributes specifies valid software

versions (col. 3, ll. 3-9, available upgrade versions);

the operation of automatically discovering attributes of the devices

comprises automatically discovering version information for software in one or

more of the devices (col. 3, ll. 3-9, current and available upgrade versions are

compared); and

the operation of automatically comparing the discovered attributes with the

predefined set of valid device attributes comprises automatically comparing the

discovered version information with the valid software versions (col. 3, ll. 3-9,

current and available upgrade versions are compared).

11.    Regarding claim 4, Turnbull discloses the method wherein:

the software in at least one of the one or more devices comprises

firmware (col. 3, ll. 6-9, firmware); and

the operation of automatically comparing the discovered attributes with the

predefined set of valid device attributes comprises automatically determining

whether the firmware has a valid version (col. 3, ll. 3-9, compare to determine if a

more recent version is available).

12.     Regarding claim 5, Turnbull discloses the method wherein the operation of

automatically discovering attributes of the devices comprises:

        automatically identifying a device type for at least one of the devices (col.

3, ll. 4-7);

        dynamically loading a validation module based on the identified device

type (col. 2, ll. 56-59, applet or small program application); and

        automatically using the validation module to poll the at least one device

(co. 3, ll. 4-7, detect version).

13.     Regarding claim 8, Turnbull discloses a program product for validating

devices in a network, the program product comprising:

        a computer-usable medium (col. 4, ll. 33-42, computer);

        computer instructions encoded in the computer-usable medium, wherein,

when executed, the computer instructions perform operations comprising:

        receiving user input requesting a validation process (col. 2, ll. 56-59, load

programs on computing devices to conduct validation process);

        in response to the user input, automatically communicating with devices in

the network and discovering attributes of the devices (col. 2, ll. 56-59, load

programs on computing devices to conduct validation process);

        automatically comparing the discovered attributes with a predefined set of

valid device attributes; generating output data that indicates whether the

discovered attributes match the valid device attributes (col. 2, ll. 59-62,

automatically alert when an upgrade is necessary); and

generating output data that identifies an invalid attribute among the

discovered attributes and a corresponding valid attribute from the predefined set

of valid device attributes (col. 3, ll. 3-9, current and available upgrade versions

are compared).

14.     Regarding claim 10, Turnbull discloses the program product wherein:

the predefined set of valid device attributes specifies valid software

versions (col. 3, ll. 3-9, available upgrade versions);

the operation of automatically discovering attributes of the devices

comprises automatically discovering version information for software in one or

more of the devices (col. 3, ll. 3-9, current and available upgrade versions are

compared); and

the operation of automatically comparing the discovered attributes with the

predefined set of valid device attributes comprises automatically comparing the

discovered version information with the valid software versions (col. 3, ll. 3-9,

current and available upgrade versions are compared).

15.     Regarding claim 11, Turnbull discloses the program product wherein:

the software in at least one of the one or more devices comprises

firmware (col. 3, ll. 6-9, firmware); and

the operation of automatically comparing the discovered attributes with the

predefined set of valid device attributes comprises automatically determining

whether the firmware has a valid version (col. 3, ll. 3-9, compare to determine if a

more recent version is available).

16.    Regarding claim 12, Turnbull discloses the program product wherein the

operation of automatically discovering attributes of the devices comprises:

automatically identifying a device type for at least one of the devices (col.

3, II. 4-7);

dynamically loading a validation module based on the identified device

type (col. 2, II. 56-59, applet or small program application); and

automatically using the validation module to poll the at least one device

(col. 3, II. 4-7, detect version).

17.    Regarding claim 14, Turnbull discloses an information handling system for

validating a network configuration, the information handling system comprising:

a computer-usable medium (col. 4, II. 33-42, computer);

a predefined set of valid device attributes stored in the computer-usable

medium (col. 4, II. 33-42, computer);

a network interface in communication with a network of devices (col. 4, II.

33-42, computer); and

processing resources in communication with the network interface and the

computer- usable medium, wherein the processing resources perform operations

comprising:

receiving user input requesting a validation process (col. 2, II. 56-59, load

programs on computing devices to conduct validation process);

in response to the user input, automatically communicating with the

devices via the network interface to discover attributes of the devices (col. 2, II.

56-59, load programs on computing devices to conduct validation process);

automatically comparing the discovered attributes with the predefined set of valid device attributes (col. 2, II. 59-62, automatically alert when an upgrade is necessary);

generating output data that indicates whether the discovered attributes match the valid device attributes (col. 3, II. 3-9, current and available upgrade versions are compared); and

generating output data that identifies an invalid attribute among the discovered attributes and a corresponding valid attribute from the predefined set of valid device attributes (col. 3, II. 3-9, current and available upgrade versions are compared).

18.     Regarding claim 16, Turnbull discloses the information handling system wherein:

the predefined set of valid device attributes specifies valid sotlware versions (col. 3, II. 3-9, available upgrade versions);

the processing resources automatically discover version information for sottware in one or more of the devices (col. 3, II. 3-9, current and available upgrade versions are compared); and

the processing resources automatically compare the discovered version information with the valid software versions (col. 3, II. 3-9, current and available upgrade versions are compared).

19.     Regarding claim 17, Turnbull discloses the information handling system wherein the software in at least one of the one or more devices comprises firmware (col. 3, II. 6-9, firmware), and the processing resources automatically

determine whether the firmware has a valid version (col. 3, II. 3-9, compare to determine if a more recent version is available).

20.     Regarding claim 18, Turnbull discloses the information handling system wherein:

the processing resources automatically identify a device type for at least one of the devices (col. 3, II. 4-7);

the processing resources dynamically load a validation module based on the identified device type (col. 2, II. 56-59, applet or small program application); and

the processing resources automatically use the validation module to poll the at least one device (col. 3, II. 4-7, detect version).

21.     Regarding claim 21, Turnbull discloses the information handling system wherein the processing resources comprise:

one or more processors (col. 4, II. 33-42, computer); and

software which, when executed by the one or more processors, cause the one or more processors to perform the operations of receiving user input, automatically communicating with the devices, automatically comparing the discovered attributes with the predefined set of valid device attributes, and generating output data (col. 2, II. 56-59, load programs on computing devices to conduct validation process; col. 3, II. 3-9, determine versions).

22.     Regarding claim 22, Turnbull discloses a method of validating a network comprising:

receiving user input requesting validation of the network configuration (col.

2, ll. 56-59, load programs on computing devices to conduct validation process);

in response to the user input, automatically discovering hardware

attributes of devices in the network (col. 2, ll. 59-62, automatically alert when an

upgrade is necessary);

automatically comparing the discovered hardware attributes with a

predefined set of valid hardware attributes (col. 2, ll. 59-62, automatically alert

when an upgrade is necessary); and

generating output data that indicates whether the discovered hardware

attributes match the valid hardware attributes (col. 3, ll. 3-9, current and available

upgrade versions are compared).

### Claim Rejections - 35 USC § 103

23.     The following is a quotation of 35 U.S.C. 103(a) which forms the basis for

all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described
> as set forth in section 102 of this title, if the differences between the subject matter sought to
> be patented and the prior art are such that the subject matter as a whole would have been
> obvious at the time the invention was made to a person having ordinary skill in the art to which
> said subject matter pertains.  Patentability shall not be negatived by the manner in which the
> invention was made.

24.     This application currently names joint inventors.  In considering

patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that

the subject matter of the various claims was commonly owned at the time any

inventions covered therein were made absent any evidence to the contrary.

Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor

and invention dates of each claim that was not commonly owned at the time a

later invention was made in order for the examiner to consider the applicability of

35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35

U.S.C. 103(a).

25.     Claims 6, 7, 13, 19 and 20 rejected under 35 U.S.C. 103(a) as being

unpatentable over Turnbull in view of Price et al. (US 7,133,906 B2), hereinafter

referred to as Price.

26.     Regarding claim 6, Turnbull teaches the utilization of a file for reference

when determining valid device attributes (col. 7, ll. 53-56, storage of configuration

information) however does not explicitly teach the utilization of a markup

language to encode the valid device attributes.  In related art, Price teaches on

this limitation of using a markup language to encode the valid device attributes

wherein Price teaches the use of a markup language (XML) when performing

configuration techniques within a network of network devices in an Internet like

system (col. 2, ll. 45-58).  One of ordinary skill in the art at the time of the

applicants' invention would have found it obvious to utilize a markup language to

encode the valid device attributes as taught by Price.  One of ordinary skill in the

art would have been motivated to use a markup language due to their inherent

nature of being easy to use common usage as demonstrated by Price (col. 2, ll.

49-53).

27.     Regarding claim 7, Turnbull and Price teach the method wherein:

        the file with the valid device attributes comprises an extensible markup

language (XML) file (Price, col. 2, ll. 45-58); and

the operation of automatically determining the valid device attributes

comprises parsing the XML file by reference to a document type definition (DTD)

file, wherein the DTD file contains definitions of data elements for validating the

network (Price, col. 5, ll. 30-36).

28.    Regarding claim 13, Turnbull teaches the utilization of a file for reference

when determining valid device attributes (col. 7, ll. 53-56, storage of configuration

information) however does not explicitly teach the utilization of a markup

language to encode the valid device attributes.  In related art, Price teaches on

this limitation of using a markup language to encode the valid device attributes

wherein Price teaches the use of a markup language (XML) when performing

configuration techniques within a network of network devices in an Internet like

system (col. 2, ll. 45-58).  One of ordinary skill in the art at the time of the

applicants' invention would have found it obvious to utilize a markup language to

encode the valid device attributes as taught by Price.  One of ordinary skill in the

art would have been motivated to use a markup language due to their inherent

nature of being easy to use common usage as demonstrated by Price (col. 2, ll.

49-53).

29.    Regarding claim 19, Turnbull teaches the utilization of a file for reference

when determining valid device attributes (col. 7, ll. 53-56, storage of configuration

information) however does not explicitly teach the utilization of a markup

language to encode the valid device attributes.  In related art, Price teaches on

this limitation of using a markup language to encode the valid device attributes

wherein Price teaches the use of a markup language (XML) when performing

configuration techniques within a network of network devices in an Internet like system (col. 2, II. 45-58). One of ordinary skill in the art at the time of the applicants' invention would have found it obvious to utilize a markup language to encode the valid device attributes as taught by Price. One of ordinary skill in the art would have been motivated to use a markup language due to their inherent nature of being easy to use common usage as demonstrated by Price (col. 2, II. 49-53).

30.     Regarding claim 20, Turnbull and Price teach the information handling system wherein:

the file with the valid device attributes comprises an extensible markup language (XML) file (Price, col. 2, II. 45-58);

the information handling system further comprises a document type definition (DTD) file that contains definitions of data elements for validating the network (Price, col. 5, II. 30-36); and

the processing resources automatically determine the valid device attributes by using the DTD file to parse the XML file (Price, col. 5, II. 30-36).

## *Conclusion*

31.    The prior art made of record and not relied upon is considered pertinent to

applicant's disclosure.

Brown et al. (US 2007/0011283 A1) teaches an apparatus and method for

managing configuration of computer systems on a computer network.

Price et al. (US 2007/0027968 A1) teaches a system and method for remotely

configuring devices for testing scenarios.

Suorsa et al. (US 7,152,109 B2) teaches automated provisioning of computing

networks according to customer accounts using a network database data

model.

Kanemitsu (US 7,194,526 B2) teaches a network device management method,

and network devices.

Brown et al. (US 7,171,458 B2) teaches an apparatus and method for managing

configuration of computer systems on a computer network.

McCaleb et al. (US 7,171,660 B2) teaches an intelligent patch checker.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Benjamin A. Ailes whose telephone number is (571)272-3899. The examiner can normally be reached on M-F 6:30-4, IFP Work Schedule.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Caldwell can be reached on (571)272-3868. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

BEATRIZ PRIETO
PRIMARY EXAMINER

baa